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Attorneys for Kyan Flynn, Mechelle Bonilla
and Carlyn Lindsten

UNITED STATES DISTRICT COURT – SOUTHERN DISTRICT OF
CALIFORNIA

CHAD MCKINNEY, an individual,
Plaintiff,

v.

APOLLO GROUP, INC.,
UNIVERSITY OF PHOENIX, a
Corporation, MECHELLE
BONILLA, an Enrollment Manager
at UNIVERSITY OF PHOENIX,
KYAN FLYNN, Director of
Enrollment at UNIVERSITY OF
PHOENIX, APRIL ALCORN, an
Employees Relations Consultant at
UNIVERSITY OF PHOENIX,
CARLYN LINDSTEN, Associate
Director of Enrollment at
UNIVERSITY OF PHOENIX

Defendants

CASE NO. 07-CV-2373 WQH CAB

**KYAN FLYNN, MECHELLE
BONILLA AND CARLYN
LINDSTEN'S NOTICE OF MOTION
AND MOTION TO DISMISS
PLAINTIFF'S COMPLAINT, OR, IN
THE ALTERNATIVE, MOTION
FOR MORE DEFINITE
STATEMENT**

**[FRCP 12(b)(2); 12(b)(5); 12(b)(6);
12(e).]**

**NO ORAL ARGUMENT, UNLESS
REQUESTED BY THE COURT**

Date: October 20, 2008

Time: 11:00 a.m.

Courtroom: 4

Judge: Hon. William Q. Hayes

DATE OF FILING: December 19, 2007

USDC-SOUTHERN DISTRICT CALIFORNIA
CASE NO. 07-CV-2373 WQH CAB

NOTICE OF MOTION AND MOTION TO DISMISS OR FOR MORE DEFINITE STATEMENT

1 TO PLAINTIFF AND HIS ATTORNEY(S) OF RECORD:

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3 PLEASE TAKE NOTICE that on October 20, 2008 at 11:00 a.m., or as soon
4 thereafter as counsel may be heard by the above entitled Court, located at 940 Front
5 Street, San Diego, California 92101, Courtroom 4, defendants Kyan Flynn,
6 Mechelle Bonilla and Carlyn Lindsten (the "Individual Defendants") will and
7 hereby do move the Court pursuant to Rules 12(b)(2); 12(b)(5); 12(b)6; and 12(e)
8 of the Federal Rules of Civil Procedure ("FRCP") and pursuant to the Court's July
9 22, 2008 Order ("Order") requiring plaintiff to properly serve the Individual
10 Defendants by September 5, 2008, to dismiss plaintiff's complaint with prejudice or
11 in the alternative require a more definite statement.

12 This motion is brought on the following grounds: (1) The Court lacks
13 jurisdiction over the Individual Defendants since they were never properly served in
14 this matter; (2) The Complaint fails to state any claims upon which relief may be
15 granted; (3) The Complaint fails to set forth a short and plain statement of the claim
16 showing that the [plaintiff] is entitled to relief; (4) The Complaint is so vague and
17 ambiguous so as to require plaintiff to provide a more definite statement; and (5)
18 plaintiff failed to properly serve the Individual Defendants by September 5, 2008,
19 pursuant to the Court's Order.

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1 This motion is based on this notice of motion and motion, the memorandum
2 of points and authorities, the declarations of Nathan W. Hicks, Kyan Flynn,
3 Mechelle Bonilla and Carlyn Lindsten filed herewith, and supporting exhibit
4 thereto, the Court's files in this matter, all supporting documents, evidence and oral
5 argument before this Court at the time of the hearing, and any other matter properly
6 before the Court.

7 Date: September 9, 2008

SNELL & WILMER L.L.P.

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10 By: s/Nathan Hicks
Christy Joseph
Nathan W. Hicks
Attorneys for Kyan Flynn,
11 Mechelle Bonilla and Carlyn
12 Lindsten

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PROOF OF SERVICE**McKinney v. Apollo Group, Inc., et al.
USDC, Southern – Case No. 07-CV-2373**

I am employed in the County of Orange, State of California. I am over the age of 18 and not a party to the within action; my business address is 600 Anton Boulevard, Suite 1400, Costa Mesa, California 92626-7689.

On September 9, 2008, I served, in the manner indicated below, the foregoing document described as **KYAN FLYNN, MECHELLE BONILLA AND CARLYN LINDSTEN'S NOTICE OF MOTION AND MOTION TO DISMISS PLAINTIFF'S COMPLAINT, OR, IN THE ALTERNATIVE, MOTION FOR MORE DEFINITE STATEMENT** on the interested parties in this action by placing true copies thereof, enclosed in sealed envelopes, at Costa Mesa, addressed as follows:

Chad McKinney 6266 Madeline Street, Apt. #61 San Diego, CA 92115	Plaintiff, Pro Se Tel: (619) 634-3566 TRACKING # 798508102292
United States District Court Attention: Hon. Judge William Q. Hayes Courtroom 4 940 Front Street, Room 4290 San Diego, CA 92101-8900	Courtesy Copy Tel: (619) 557-5600 TRACKING # 792104054237

I am employed in the office of a member of the bar of this court at whose direction the service was made.

☒ BY FEDERAL EXPRESS: I caused such envelopes to be delivered by air courier, with next day service, to the offices of the addressees. (C.C.P. § 1013(c)(d)).

I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

Executed on September 9, 2008, at Costa Mesa, California.


Anh Dufour